



PATENT

Case Docket No. MASIMO.56DC1C1

Date: July 30, 2004


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Diab et al.  
Appl. No. : 10/791,683  
Filed : March 2, 2004  
For : SIGNAL PROCESSING  
APPARATUS AND METHOD  
Examiner : Unknown  
Group Art Unit : 2621

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

August 2, 2004

(Date)

  
Lee W. Henderson Ph.D., Reg. No. 41,830


TRANSMITTAL LETTER

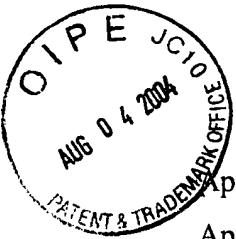
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Enclosed for filing in the above-identified application are:

- (X) An Information Disclosure Statement.
- (X) A PTO Form 1449 listing one-hundred ninety (190) references; 40 of which are enclosed.
- (X) The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Account No. 11-1410.
- (X) Return prepaid postcard.

  
Lee W. Henderson Ph.D.  
Registration No. 41,830  
Attorney of Record  
Customer No. 20,995  
(949) 760-0404



## INFORMATION DISCLOSURE STATEMENT

Applicant : Diab et al.  
App. No. : 10/791,683  
Filed : March 2, 2004  
For : SIGNAL PROCESSING APPARATUS  
AND METHOD  
Examiner : Unknown  
Group Art Unit : 2621

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Enclosed is form PTO-1449 listing one-hundred ninety references. Copies of disclosed U.S. patents and/or publications are not included pursuant to PTO waiver of the requirement under 37 C.F.R. § 1.98(a)(2)(i) for applications filed after June 30, 2003. Copies of other references, if listed, are enclosed.

This Information Disclosure Statement is being filed before the receipt of a first Office Action on the merits, and presumably no fee is required in accordance with 37 C.F.R. § 1.97(b)(3). If a first Office Action on the merits was mailed before the mailing date of this Statement, the Commissioner is authorized to charge the fee set forth in 37 C.F.R. § 1.17(p) to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Aug 2, 2004

By: Lee W. Henderson

Lee W. Henderson Ph.D.  
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FORM PTO-1449

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICEATTY. DOCKET NO.  
MASIMO.56DC1C1APPLICATION NO.  
10/791,683INFORMATION DISCLOSURE STATEMENT  
BY APPLICANT

(USE SEVERAL SHEETS IF NECESSARY)

APPLICANT  
Diab et al.FILING DATE  
March 2, 2004GROUP  
2621

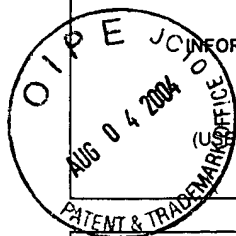
## U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE (IF APPROPRIATE)
	1	6,725,075	04/2004	Al-Ali			
	2	RE38,492	04/2004	Diab, et al.			
	3	6,714,804	03/2004	Al-Ali, et al.			
	4	RE38,476	03/2004	Diab, et al.			
	5	6,699,194	03/2004	Diab, et al.			
	6	6,697,658	02/2004	Al-Ali			
	7	6,697,656	02/2004	Al-Ali			
	8	6,684,090	01/2004	Ali, et al.			
	9	6,678,543	01/2004	Diab, et al.			
	10	6,671,531	12/2003	Al-Ali, et al.			
	11	6,658,276	12/2003	Diab, et al.			
	12	6,654,624	11/2003	Diab, et al.			
	13	6,650,917	11/2003	Diab, et al.			
	14	6,643,530	11/2003	Diab, et al.			
	15	6,640,116	10/2003	Diab			
	16	6,632,181	10/2003	Flaherty, et al.			
	17	6,606,511	08/2003	Ali, et al.			
	18	6,597,933	07/2003	Kiani, et al.			
	19	6,584,336	6/2003	Ali, et al.			
	20	6,580,086	06/2003	Schulz, et al.			
	21	6,542,764	04/2003	Al-Ali, et al.			
	22	6,541,756	04/2003	Schulz, et al.			
	23	6,526,300	02/2003	Kiani, et al.			
	24	6,525,386	02/2003	Mills, et al.			
	25	6,515,273	02/2003	Al-Ali			
	26	6,501,975	12/2002	Diab, et al.			
	27	6,470,199	10/2002	Kopotic, et al.			

EXAMINER

DATE CONSIDERED

\*EXAMINER: INITIAL IF CITATION CONSIDERED, WHETHER OR NOT CITATION IS IN CONFORMANCE WITH MPEP 609; DRAW LINE THROUGH CITATION IF NOT IN CONFORMANCE AND NOT CONSIDERED, INCLUDE COPY OF THIS FORM WITH NEXT COMMUNICATION TO APPLICANT.



FORM PTO-1449	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTY. DOCKET NO. MASIMO.56DC1C1	APPLICATION NO. 10/791,683
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (USE SEVERAL SHEETS IF NECESSARY)		APPLICANT Diab et al.	
		FILING DATE March 2, 2004	GROUP 2621

U.S. PATENT DOCUMENTS							
EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE (IF APPROPRIATE)
	28	6,463,311	10/2002	Diab			
	29	6,430,525	08/2002	Weber, et al.			
	30	6,397,091	05/2002	Diab, et al.			
	31	6,388,240	05/2002	Schulz, et al.			
	32	6,377,829	04/2002	Al-Ali			
	33	6,371,921	04/2002	Caro, et al.			
	34	6,360,114	03/2002	Diab, et al.			
	35	6,349,228	02/2002	Kiani, et al.			
	36	6,334,065	12/2001	Al-Ali, et al.			
	37	6,285,896	09/2001	Tobler, et al.			
	38	6,280,213	08/2001	Tobler, et al.			
	39	6,278,522	08/2001	Lepper, Jr., et al.			
	40	6,263,222	07/2001	Diab, et al.			
	41	6,256,523	07/2001	Diab, et al.			
	42	6,236,872	05/2001	Diab, et al.			
	43	6,229,856	05/2001	Diab, et al.			
	44	6,206,830	03/2001	Diab, et al.			
	45	6,184,521	02/2001	Coffin, IV, et al.			
	46	6,165,005	12/2000	Mills, et al.			
	47	6,157,850	12/2000	Diab, et al.			
	48	6,152,754	11/2000	Gerhardt, et al.			
	49	6,151,516	11/2000	Kiani-Azarbayjany, et al.			
	50	6,110,522	08/2000	Lepper, Jr., et al.			
	51	6,088,607	07/2000	Diab, et al.			
	52	6,081,735	06/2000	Diab, et al.			
	53	6,067,462	05/2000	Diab, et al.			
	54	6,036,642	03/2000	Diab, et al.			

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	55	6,011,986	01/2000	Diab, et al.			
	56	6,002,952	12/1999	Diab, et al.			
	57	5,997,343	12/1999	Mills, et al.			
	58	5,995,855	11/1999	Kiani, et al.			
	59	5,940,182	08/1999	Lepper, Jr., et al.			
	60	5,934,925	08/1999	Tobler, et al.			
	61	5,919,134	07/1999	Diab			
	62	5,890,929	04/1999	Mills, et al.			
	63	5,860,919	01/1999	Kiani-Azarbayjany, et al.			
	64	5,842,981	12/1998	Larsen, et al.			
	65	5,823,950	10/1998	Diab, et al.			
	66	5,782,757	07/1998	Diab, et al.			
	67	5,769,785	06/1998	Diab, et al.			
	68	5,760,910	06/1998	Lepper, Jr., et al.			
	69	5,758,644	06/1998	Diab, et al.			
	70	5,743,262	04/1998	Lepper, Jr., et al.			
	71	Des. 393,830	04/1998	Tobler, et al.			
	72	5,685,299	11/1997	Diab, et al.			
	73	5,662,105	09/1997	Tien			
	74	5,645,440	07/1997	Tobler, et al.			
	75	5,638,818	06/1997	Diab, et al.			
	76	5,638,816	06/1997	Kiani-Azarbayjany, et al.			
	77	5,632,272	05/1997	Diab, et al.			
	78	5,494,032	02/1996	Robinson, et al.			
	79	5,490,505	02/1996	Diab, et al.			
	80	5,482,036	01/1996	Diab, et al.			
	81	5,458,128	10/1995	Pulanyi, et al.			

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	82	5,452,717	09/1995	Branigan, et al.			
	83	5,431,170	07/1995	Mathews			
	84	5,337,744	08/1994	Branigan			
	85	5,273,036	12/1993	Kronberg, et al.			
	86	5,259,381	11/1993	Cheung, et al.			
	87	5,246,022	09/1993	Prosser			
	88	5,057,695	10/1991	Hirao, et al.			
	89	5,054,495	10/1991	Uemura, et al.			
	90	5,042,499	08/1991	Frank, et al.			
	91	4,967,571	11/1990	Sporri			
	92	4,960,126	10/1990	Conlon, et al.			
	93	4,956,867	09/1990	Zurek, et al.			
	94	4,955,379	09/1990	Hall			
	95	4,951,680	08/1990	Kirk, et al.			
	96	4,949,710	08/1990	Dorsett, et al.			
	97	4,948,248	08/1990	Lehman			
	98	4,942,877	07/1990	Sakai, et al.			
	99	4,934,372	06/1990	Corenman, et al.			
	100	4,928,692	05/1990	Goodman, et al.			
	101	4,927,264	05/1990	Shiga, et al.			
	102	4,913,150	04/1990	Cheung, et al.			
	103	4,911,167	03/1990	Coreman, et al.			
	104	4,907,594	03/1990	Muz			
	105	4,892,101	01/1990	Cheung, et al.			
	106	4,883,356	11/1989	deMey, II			
	107	4,883,353	11/1989	Hausman, et al.			
	108	4,869,254	09/1989	Stone, et al.			

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	109	4,869,253	09/1989	Craig, Jr., et al.			
	110	4,867,571	09/1989	Frick, et al.			
	111	4,863,265	09/1989	Flower, et al.			
	112	4,860,759	08/1989	Kahn, et al.			
	113	4,859,056	08/1989	Prosser, et al.			
	114	4,858,199	08/1989	Griffith			
	115	4,848,901	07/1989	Hood, Jr.			
	116	4,824,242	04/1989	Frick, et al.			
	117	4,819,752	04/1989	Zelin			
	118	4,819,646	04/1989	Cheung, et al.			
	119	4,807,631	02/1989	Hersh, et al.			
	120	4,802,486	02/1989	Goodman, et al.			
	121	4,800,495	01/1989	Smith			
	122	4,799,493	01/1989	DuFault			
	123	4,781,200	11/1988	Baker			
	124	4,773,422	09/1988	Issacson, et al.			
	125	4,751,931	06/1988	Briller, et al.			
	126	4,723,294	02/1988	Taguchi			
	127	4,714,341	12/1987	Hamaguri, et al.			
	128	4,694,833	09/1987	Hamaguri			
	129	4,653,498	03/1987	New, Jr., et al.			
	130	4,649,505	03/1987	Zinser, Jr., et al.			
	131	4,617,589	10/1986	Weckenbrock			
	132	4,586,513	05/1986	Hamaguri			
	133	4,537,200	08/1985	Widrow			
	134	4,519,396	05/1985	Epstein, et al.			
	135	4,446,871	05/1984	Imura			

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	136	4,407,290	10/1983	Wilber			
	137	4,305,398	12/1981	Sawa			
	138	4,266,554	05/1981	Hamaguri			
	139	4,243,935	01/1981	McCool, et al.			
	140	4,238,746	12/1980	McCool, et al.			
	141	4,095,117	06/1978	Nagy			
	142	4,086,915	05/1978	Kofsky, et al.			
	143	4,063,551	12/1977	Sweeney			
	144	3,998,550	12/1976	Konishi, et al.			
	145	3,991,277	11/1976	Hirata			
	146	3,704,706	12/1972	Herczfeld, et al.			
	147	3,647,299	03/1972	Lavallee			
	148	3,638,640	02/1972	Shaw			
	149	2002/0077536 A1	06/2002	Diab et al.			
	150	2002/128544 A1	09/2002	Diab et al.			

FOREIGN PATENT DOCUMENTS								
EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
							YES	NO
	151	0 341 327 A1	11/1989	European				
	152	0 335 357	03/1989	European				
	153	EP 0 760 223 A1	08/1995	European				
	154	EP 0 761 159 B1	08/1996	European				
	155	DE 33 28 862 A1	02/1985	Germany				
	156	2 166 326 A	04/1986	United Kingdom				
	157	2 235 288 A	02/1991	United Kingdom				
	158	92/15955	09/1992	PCT				

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EXAMINER INITIAL	OTHER DOCUMENTS (INCLUDING AUTHOR, TITLE, DATE, PERTINENT PAGES, ETC.)	
	159	Braun, S., et al., "Mechanical Signature Analysis - Theory and Applications," pp. 142-145, 202-203 (1986)
	160	Chen, J., et al., "Adaptive System for Processing of Electrogastric Signals," <u>Images of the Twenty-First Century</u> , Vol. 11, pp. 698-699, Seattle, WA, Nov. 9-12, 1989
	161	Ferrara, E.R., "Fetal Electrocardiogram Enhancement by Time-Sequenced Adaptive Filtering," <u>IEEE Transactions on Biomedical Engineering</u> , Vol. BME-29, No. 6, June 1982
	162	Glover, Jr., J.R., "Adaptive Noise Canceling of Sinusoidal Interferences," A Dissertation Submitted to the Department of Electrical Engineering and the Committee on Graduate Studies of Stanford University in Partial Fulfillment of the Requirements for the Degree of Doctor of Philosophy, pp. iii-82 (1975)
	163	Harris, et al., "Digital Signal Processing with Efficient Polyphase Recursive All-Pass Filter," International Conference, Florence, Italy, (September 26, 1991)
	164	Hendry, S.D., "Computation of Harmonic Comb Filter Weights," <u>IEEE Transactions on Signal Processing</u> , Vol. 41, No. 4, April 1993
	165	Jingzheng, O., et al., "Digital Processing of High-Resolution Electrocardiograms-Detection of His Purkinje Activity From the Body Surface," <u>Biomedizinische Technik</u> , Vol. 33, No. 10, pp. 224-230, Berlin, Germany, October 1, 1988
	166	Li, G., "A Stable and Efficient Adaptive Notch Filter for Direct Frequency Estimation," <u>IEEE Transactions on Signal Processing</u> , Vol. 45, No. 8, August 1987
	167	Nehorai, A., "Adaptive Comb Filtering for Harmonic Signal Enhancement," <u>IEEE Transactions on Acoustics, Speech, and Signal Processing</u> , Vol. ASSP-34, No. 5, October 1986
	168	Nehorai, A., "A Minimal Parameter Adaptive Notch Filter With Constrained Poles and Zeros," <u>IEEE Transactions on Acoustics, Speech, and Signal Processing</u> , Vol. ASSP-33, No. 4, August 1985
	169	Pau, L.F., "Acoustic and Vibration Monitoring," <u>Failure Diagnosis and Performance Monitoring</u> , Chapter 13, pp. 295-299
	170	Varanini, M., et al. "A Two Channel Adaptive Filtering Approach for Recognition of the QRS Morphology," pp. 141-144, Proceedings of the Computers in Cardiology Meeting, Venice, Institute of Electrical and Electronics Engineers, Sept. 23-26, 1991
	171	Widrow, B., "Adaptive Noise Canceling: Principles and Applications," Proceedings of IEEE, Vol. 63, No. 12, December 1975
	172	Wukitsch, M.W., et al., "Pulse Oximetry: Analysis Theory, Technology, and Practice," <u>Journal of Clinical Monitoring</u> , Vol. 4, No. 4, pp. 290-301 (October 1988)
	173	Yelderman, M., et al., "Ecg Enhancement by Adaptive Cancellation of Electrosurgical Interference," pp. 1-21
	174	Yelderman, M., et al., "Sodium Nitroprusside Infusion By Adaptive Control," Adaptive Control by Inverse Modeling, Conference Record: 12 <sup>th</sup> Asilosor Conference 90 (1978)
	175	Yu, C., et al., "Improvement in Arterial Oxygen Control Using Multiple Model Adaptive Control Procedures," pp. 878-883
	176	United States District Court - Civil Minutes, Case No. SA CV 99-1245 AHS (Anx), <i>Masimo v. Mallinckrodt and Nellcor Puritan Bennett</i> , Dated 10/04/00
	177	United States Courts of Appeals for the Federal Circuit - Opinion, Case No. 01-1028, -1084, <i>Masimo v. Mallinckrodt, Inc. and Nellcor Puritan Bennett, Inc.</i> , Decided: 08/08/01

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EXAMINER INITIAL	OTHER DOCUMENTS (INCLUDING AUTHOR, TITLE, DATE, PERTINENT PAGES, ETC.)	
	178	Findings of Fact and Conclusion of Law Regarding Masimo's Motion for Preliminary Injunction, <i>Masimo v. Mallinckrodt Inc., et al.</i> , U.S. District Court, Central District of California (Southern Division), Civil Action No. SA-CV-99-1245 AHS (Anx), filed November 2, 2000 (REDACTED)
	179	Nelcor's Third Amended Complaint for Patent Infringement
	180	Nelcor's and Mallinckrodt's Amended Complaint for Patent Infringement
	181	Nelcor's and Mallinckrodt's Amended and Supplemental Answer and Counterclaims to Masimo Corporation's First Amended Complaint in Case No. CV-01-7293-MRP (AJWx)
	182	Nelcor's and Mallinckrodt's First Amended and Supplemental Reply and Counterclaims to Counterclaims of Masimo Corporation
	183	Non-Confidential Reply Brief of Defendants-Cross Appellants Mallinckrodt Inc. and Nelcor Puritan Bennett, Inc. dated February 22, 2001
	184	Nelcor's and Mallinckrodt's Reply Claim Construction Brief on the Patents-In-Suit dated October 18, 2002
	185	Nelcor's and Mallinckrodt's Opening Claim Construction Brief on the Patents-In-Suit dated September 16, 2002
	186	Non-Confidential Brief of Defendants-Cross Appellants Mallinckrodt Inc. and Nelcor Puritan Bennett, Inc. dated January 22, 2001
	187	Non-Confidential Brief of Plaintiff-Appellant Masimo Corporation dated December 8, 2000
	188	Non-Confidential Reply Brief of Plaintiff-Appellant Masimo Corporation dated February 6, 2001
	189	Memorandum of Decision and Order Re: Claim Construction; Motion to Strike Masimo's Declarations dated February 27, 2003
	190	Copen pending U.S. Application No. 09/195,791, filed on November 17, 1998 (Atty. No. 7CP1C5), and pending claims.

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